

Amendment Under 37 C.F.R. § 1.111
U.S. Application No. 10/789,990

REMARKS

Claims 1-17, all the claims pending in the application, stand rejected. Claims 1, 3, 6-10, 13, 15 and 16 are amended. Claims 2, 12 and 14 are cancelled. New claim 18 is added.

The amendment to claim 1 is based on the description of the original claim 2 and on the description of page 9, lines 6-9 from the bottom of the instant specification.

The amendment to claim 13 is based on original claims 1 and 14.

Newly added claim 18 is based on the description of page 10, lines 2-8 of the original specification.

Claim Rejections - 35 U.S.C. § 112

Claims 7-10 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite. This rejection is traversed for at least the following reasons.

The Examiner notes that these claims are multiple dependent claims that depend from other multiple dependent claims. The basis for rejection has been removed by amendment to the claims.

Claim Rejections - 35 U.S.C. § 102

Claims 1-12 are rejected under 35 U.S.C. § 102(b) as being anticipated by White (6,042,995). This rejection is traversed for at least the following reasons.

White (6,042,995) does not disclose that “the substrate has a principal surface provided with a base pattern which has a predetermined shape and a predetermined size and which is formed at a predetermined position on the substrate. White also does not disclose that “the reflective multilayer film formed on the base pattern has a principal surface provided with a step portion corresponding to the base pattern so that the reflective multilayer film has the programmed defect” as now recited in the amended claim 1.

In the absence of these structural limitations, the claim cannot be anticipated.

Claim Rejections - 35 U.S.C. § 103

Claims 1-12 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Dettmann et al (7,045,254) in view of White (6,042,995). This rejection is traversed for at least the following reasons.

Neither of White (6,042,995) and Dettmann et al (7,045, 254) discloses or suggests that “the substrate has a principal surface provided with a base pattern which has a predetermined shape and a predetermined size and which is formed at a predetermined position on the substrate” and that “the reflective multilayer film formed on the base pattern has a principal surface provided with a step portion corresponding to the base pattern so that the reflective multilayer film has the programmed defect,” as recited in amended claim 1. The Examiner admits to the existence of novel features of the Applicants’ disclosure. In the Examiner’s analysis, no reference is made to the foregoing limitations, and Applicants submit that none could be so made since the art does not teach these limitations. Thus, the claims must be considered patentable.

Claims 13-17 are rejected under 35 U.S.C. § 103(a) as being unpatentable over White (6,042,995) in view of Yan (6,641,959) and Tsukamoto (6,723,475). This rejection is traversed for at least the following reasons.

None of White (6,042,995), Yan (6,641,959), and Tsukamoto et al (6,723, 475) discloses or suggests that “the reflective multilayer is deposited by sputtering in a condition that the substrate is placed so that the principal surface of the substrate is inclined at an angle with respect to a surface of a sputter target for deposition of the multilayer reflective film and the substrate is rotated around a rotation axis which is a normal passing through the center of the principal surface of the substrate,” as recited in amended claim 13. While the Examiner comments that Tsukamoto et al teaches sputtering deposition at an angle, the more detailed statement of the deposit of the reflective multilayer is not taught.

Conclusions

Applicants respectfully submit that the independent claims 1 and 13 have been amended to recite limitations not found in any of the applied prior art. Thus, Applicants submit that that

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the amended claims 1 and 13 are patentable. Furthermore, Applicants submit that remaining claims, which depend from patentable claims 1 and 13, also are patentable.

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,

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